HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.4645 of 2007

Dated:08.03.2007

Between:

S.Majubur Rahman.

…Petitioner.

and

The Depot Manager and another.

…Respondents.

HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.4645 of 2007

ORDER:

The petitioner was awarded a contract to wash and clean the buses at Anantapur Depot. It is averred that the contract commenced on 01.04.2003 and was to be in force for two years. However, on finding that the contract is not beneficial to him, the petitioner said to have terminated the same through his letter, dated 06.02.2004. Subsequently, the respondents issued a show cause notice, requiring the petitioner to explain as to why the excess amount of Rs.66,074/- shall not be recovered from Earnest Money Deposit (EMD) and the balance be not forfeited. On an earlier occasion, an order was passed on 05.06.2004. The petitioner filed W.P.No.14311 of 2005. The writ petition was disposed of and the impugned order was set aside, on the ground that the petitioner was not provided with an opportunity.

Thereafter, the respondents issued show cause notice, dated 25.04.2006, and the petitioner submitted his explanation on 09.05.2006. On consideration of the same, the 2nd respondent passed order, dated 15.05.2006, directing adjustment of Rs.66,074/- from the EMD and forfeiting the balance. The same is challenged in this writ

petition.

Heard the learned counsel for the petitioner and the learned counsel for the respondents.

The recovery effected from the petitioner is on the ground that there is discrepancy as to the number of vehicles actually attended to by the petitioner and the number of vehicles in respect of which the bill was claimed, from month to month. The question as to whether the petitioner had rendered service to the vehicles, mentioned in the bills, cannot be decided in a writ petition under Article 226 of the Constitution of India. If the petitioner is so advised, he has to work out his remedies in a civil Court.

The Writ Petition is dismissed, leaving it open to the petitioner to work out his remedies in the civil Court. There shall be no order as to costs.

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Dt.08.03.2007 **L.NARASIMHA REDDY, J**

GJ